IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

MYRON TANKSLEY	§	
(TDCJ No. 1002421),	§	
	§	
Petitioner,	§	
	§	
V.	§	No. 3:18-cv-309-N
	§	
LORIE DAVIS, Director	§	
Texas Department of Criminal Justice	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND DENYING A CERTIFICATE OF APPEALABILITY

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. An objection was filed by Petitioner. The District Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c) – and to the extent that a certificate of appealability ("COA") is necessary to appeal the Court's denial of this action construed as once brought

pursuant to a motion under Federal Rule of Civil Procedure 60(b), see, e.g., Ochoa Canales v. Quarterman, 507 F.3d 884 (5th Cir. 2007) – the Court DENIES a COA. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation filed in this case in support of its finding that Petitioner has failed to show that reasonable jurists would find "it debatable whether the petition [currently] states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

In the event that Petitioner will file a notice of appeal, the Court notes that he shall either pay the appellate filing fee of \$505.00 or move for leave to proceed *in* forma pauperis on appeal.

SO ORDERED this 23rd day of February, 2018.

DAVID C. GODBEY

UNITED STATES DISTRICT JUDGE